



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

JUL 11 2014

**CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**

Debora Stalego

Fernandina Beach, FL 32034

RE: MUR 6653

Dear Ms. Stalego:

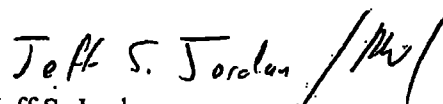
The Federal Election Commission reviewed the allegations in your complaint received on October 1, 2012. On July 10, 2014, based upon the information provided in the complaint, and information available to the public, the Commission decided to dismiss the complaint and close its file in this matter. Accordingly, the Commission closed its file in this matter on July 10, 2014.

Documents related to the case will be placed on the public record within 30 days. See Statement of Policy Regarding Disclosure of Closed Enforcement and Related Files, 68 Fed. Reg. 70,426 (Dec. 18, 2003) and Statement of Policy Regarding Placing First General Counsel's Reports on the Public Record, 74 Fed. Reg. 66,132 (Dec. 14, 2009). The Factual and Legal Analysis, which more fully explains the Commission's finding, is enclosed.

The Federal Election Campaign Act of 1971, as amended, allows a complainant to seek judicial review of the Commission's dismissal of this action. See 2 U.S.C. § 437g(a)(8).

Sincerely,

General Counsel

BY:   
Jeff S. Jordan  
Assistant General Counsel  
Complaints Examination and  
Legal Administration

Enclosure  
Factual and Legal Analysis

**FEDERAL ELECTION COMMISSION**

**FACTUAL AND LEGAL ANALYSIS**

RESPONDENTS: GOTTA VOTE!

MUR 6653

**I. INTRODUCTION**

This matter was generated by a complaint filed by Debora Stalego, on October 1, 2012, alleging violations of the Federal Election Campaign Act of 1971, as amended (the "Act") and Commission regulations by an unidentified person or persons, in the form of an anonymous mailer using the title "GOTTA VOTE!". It was scored as a relatively low-rated matter under the Enforcement Priority System, a system by which the Commission uses formal scoring criteria as a basis to allocate its resources and decide which matters to pursue.

**II. FACTUAL AND LEGAL ANALYSIS**

**A. Factual Background**

In this matter, Complainant Debora Stalego alleges that her husband, Frank Stalego, received a mailer in the form of a post card prior to the 2012 presidential election that does not contain a disclaimer or "any notification as to where it came from or whom," in violation of the Act and Commission regulations. Compl. at 1. Complainant asserts that the mailer expressly advocates for the election of President Obama and the Democratic Party. *Id.* The Complaint includes copies of two images that appear to be the front and back sides of a mailer. *Id.* at Attach 1. One image is imprinted with the text "GOTTA VOTE!<sup>1</sup> You can't afford not to." This central text in large print is surrounded by phrases such as "Turnout will determine this election" and "Your vote could make a difference." *Id.* The second image contains a written message

<sup>1</sup> During the 2012 election, Obama For America ("OFA") launched a website that used the phrase "Gotta Vote." See <https://web.archive.org/web/20120922011829/http://blog.gottavote.org/post/23218590555/lets-get-started>. This website contained a boxed disclaimer stating "Paid For By Obama For America." The post card at issue in the Complaint shares the same choice of words; however the post card does not contain any of the same logos or use the same typeface as GottaVote.org, and makes no reference to the GottaVote.org website or OFA.

1 stating, "Dear Voter, I support President Obama because he made it possible for young people to  
2 stay on their parent's health insurance until they are 26. Also because he has cut taxes for all  
3 working Americans." *Id.* The second image contains an unidentifiable bar code and a postage  
4 stamp, but it is not signed, dated, or postmarked. *Id.*

5 **B. Legal Analysis**

6 Whenever any person makes a disbursement for a "public communication" that expressly  
7 advocates the election or defeat of a clearly identified candidate, he or she must include a  
8 disclaimer. 2 U.S.C. § 441d(a); 11 C.F.R. §§ 110.11(a)(2), (b). Public communications  
9 authorized and paid for by a candidate, an authorized committee of a candidate, or an agent of  
10 either, must clearly state that the communications were paid for by the authorized political  
11 committee.<sup>2</sup> 2 U.S.C. § 441d(a)(1); 11 C.F.R. § 110.11(b)(1). Public communications authorized  
12 by a candidate, an authorized committee of a candidate, or an agent of either but paid for by  
13 another person, must clearly state that the communications were paid for by such person but  
14 authorized by the political committee. 2 U.S.C. § 441d(a)(2); 11 C.F.R. § 110.11(b)(2). Also,  
15 public communications not authorized by a candidate, authorized committee, or an agent of  
16 either, must clearly state the name and permanent address, telephone number or World Wide  
17 Web address of the person who paid for the communications, and state that they were not  
18 authorized by any candidate or candidate's committee. 2 U.S.C. § 441d(a)(3); 11 C.F.R.  
19 § 110.11(b)(3).

<sup>2</sup> A public communication is "a communication by means of any broadcast, cable, or satellite communication, newspaper, magazine, outdoor advertising facility, mass mailing, or telephone bank to the general public, or any other form of general public political advertising." 2 U.S.C. § 431(22); 11 C.F.R. § 100.26. The term public communication is defined to include mass mailings. *Id.* A mass mailing, in turn, is defined as a mailing of more than 500 pieces of mail of an identical or substantially similar nature within any 30-day period. 2 U.S.C. § 431(23); 11 C.F.R. § 100.27. There is no available information as to whether the post card at issue in this matter was a mass mailing.

1           There is no available information as to who is responsible for the anonymous post card.  
2       Additionally, the post card does not include a traceable bulk mail permit or a cancelation stamp.  
3       Furthermore, there is no information that suggests that the post card was part of a mass mailing  
4       (*i.e.*, greater than 500 pieces), nor is there any apparent way to discern the mailer's potential  
5       distribution area.

6           In light of the limited information available to determine whether the mailer qualified as a  
7       public communication under the Act and the unlikelihood that further research or investigation  
8       would decisively determine who may have been responsible for the post card, the Commission  
9       exercises its prosecutorial discretion, pursuant to *Heckler v. Chaney*, 470 U.S. 821 (1985), to  
10      dismiss this matter.